

REMARKS

Reconsideration of the present application in view of the following remarks is respectfully requested.

Status of the Claims

Claims 1-6 are presented. No claims are cancelled. No new claims are added.

No new matter has been introduced.

Summary of the Invention as Claimed

The invention as claimed is directed to **nanoemulsions** and to articles containing the nanoemulsion. An important aspect of the invention as now claimed is the requirement of a composition having a mean particle diameter of 20 to 250 nm. The composition includes as components (a) 5-50% of at least one alkyl and/or alkenyl **oligoglycoside carboxylic acid salt**; and (b) 10-50% of an oil component, where the sum of components (a) + (b) is 15% to 55% by weight of the composition as a whole (claim 1).

Another aspect of the invention as claimed is an article impregnated with the above nanoemulsion, specifically a wet wipe (claims 4-5).

Nonstatutory Double Patenting Rejection

Claims 1-6 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of co-pending US Patent Application No. 10/589,773, Attorney Docket No. C 2818 PCT/US1, in view of Simonnet et al. (US 6,689,371; "Simonnet").

Although applicants do not necessarily agree with the Examiner's characterizations of Simonnet or the substantive basis for the rejection, since there has been no indication of allowable subject matter, and in view of the provisional nature of this rejection, applicants respectfully request that they will consider the filing of an appropriate terminal disclaimer when and if allowable

subject matter is indicated to exist in the present application. Accordingly, the Examiner is respectfully requested to hold this rejection in abeyance until prosecution of 10/589,773 and the present application are each more advanced.

Rejections under 35 U.S.C. § 103(a)

Claims 1-3 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Milstein et al. (WO 99/24538; "Milstein") in view of Simonnet; and claims 4-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Milstein in view of Simonnet, further in view of Weuthen et al. (US Publication No. 2003/0124373; "Weuthen"). Applicants respectively traverse each of these rejections.

As mentioned above, the invention as now claimed is directed to **nanoemulsions** and to articles containing the nanoemulsion. An important aspect of the invention as now claimed is the requirement of a composition having a mean particle diameter of 20 to 250 nm. Furthermore, the claims require that the nanoemulsion comprises at least one alkyl and/or alkenyl **oligoglycoside carboxylic acid salt**, and at least about 10% by weight of an oil component. None of the items cited by the Examiner discloses or even suggests the subject matter of these claims.

Milstein is directed to a surfactant and a personal care product containing a surfactant of a particular formulation. However, in contradistinction to the present claims, there is no disclosure or suggestion in Milstein of a **nanoemulsion**, much less a nanoemulsion having a specific mean particle size as required by the present claims. Not only does Milstein fail to teach or suggest these two important claim requirements, it fails to disclose a specific amount of the oil component, as acknowledged by the Examiner. Furthermore, even the examples of Milstein (pages 24-29) show formulations with oil contents much less than the 10% minimum required by the claims now pending. Indeed one

advantage of applicants' **nanoemulsions** is the ability to incorporate relatively large amounts of oil components.

Simonnet does disclose nanoemulsions. Importantly, however, Simonnet discloses a nanoemulsion comprising **only sugar fatty acid esters and/or ethers** as the sugar-containing solid surfactants. Simonnet does not disclose the alkyl/alkenyl **oligoglycoside carboxylate salts** as required by the present claims, and in fact **precludes their incorporation** in the nanoemulsions, as quoted below:

"The surfactant which is solid at a temperature of less than or equal to 45 °C which can be used in the nanoemulsion of the invention is chosen **exclusively** from esters of a fatty acid and of a sugar, ethers of a fatty alcohol and of a sugar, and their mixtures, which means that **the nanoemulsion of the invention is devoid of any surfactant other than sugar fatty esters or fatty ethers.**" (column 3, lines 7-13; emphasis added)

Thus Simonnet's fatty ethers are "ethers of a fatty alcohol and of a sugar", not ethers of a fatty alcohol and a carboxyalkylated sugar. Simonnet **specifically limits his sugar surfactant component to the listed species and excludes all others**, including the carboxyalkylated sugar ether salts required by applicants. Therefore Simonnet cannot stand as a reference in an obviousness rejection of applicants' claims, and the citation of Simonnet fails to overcome the substantial deficiencies of Millstein, especially with regard to a nanoemulsion.

As observed by the Examiner, Milstein does not specifically teach a wet wipe impregnated with a nanoemulsion, and for this additional reason cannot suggest the subject matter of the pending claims.

Weuthen discloses a moist wipe impregnated with linear and/or branched alcohol polyglycol ethers which must contain at least one mole of propylene oxide ($y = 1-40$), preferably in combination with alkyl oligoglucosides. Weuthen does not disclose the alkyl/alkenyl **oligoglycoside carboxylate salts** of

applicants. In addition, Weuthen does not disclose **nanoemulsions**. Thus the deficiencies of Milstein cannot be cured by adding Weuthen.

Accordingly the combination of Milstein and Weuthen would not lead one skilled in the art at the time the invention was made to applicants' invention without the benefit of applicants' disclosure. Thus, the Examiner's obviousness rejections should be withdrawn.

Conclusion

In view of the above remarks, applicants believe that the pending claims are in condition for allowance. The Examiner is respectfully requested to reconsider, withdraw the rejections and allow the claims.

If any additional fees are required in support of this application, authorization is granted to charge our Deposit Account No. 50-1943.

Respectfully submitted,

Date: July 16, 2009

/Robert N. Henrie II/
Robert N. Henrie II
Reg. No. 60,851
Fox Rothschild LLP
2000 Market Street; Tenth Floor
Philadelphia, PA 19103
Tele: (215) 299-2000
Fax: (215) 299-2150